

REMARKS

Applicants respectfully request reconsideration of this application as amended.

Claims 1, 3, 7, 10, 17, 21, 23, 24, 25 and 26 have been amended. No claims have been cancelled. No new claims have been added. Therefore, claims 1-26 now are presented for examination.

Claim Objections

Claims 7 and 8 stand objected due to informalities. Claim 7 has been amended to overcome the objection. Accordingly, Applicants respectfully request that the objection to claims 7 and 8 be withdrawn.

35 U.S.C. § 102 Rejection

Claims 1, 3-4, 6, 9-13, 15-21 and 23-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by Fee et al., U.S. Patent No. 5,522,042 (“Fee”).

Fee discloses “allocating *the performance of applications in a networking chassis* among one or more modules in the chassis. In particular, the system acts as a chassis agent for *performing network management functions*. The agent performs a discovery function whereby each module discovers the location and current utilization of resources and applications for itself and transmits that information to other modules, and wherein each module maintains a slot table of such information for all modules. Based on the information in the slot table, each module performs *an election function for allocating applications among the various modules in the chassis.*” (abstract, lines 1-12; emphasis provided).

In contrast, claim 1, in pertinent part, recites “determining automatically, by receiving an indication, if the first server has failed or has been overloaded, wherein the indication is generated based on health matrices and performance matrices; and electing a second server automatically as the active manager server to replace the first server as the active manager server in response to the indication received.” (emphasis provided).

While Fee discloses a chassis agent for performing network management functions, Fee fails to disclose or reasonably suggest electing a second server automatically as the active manager server to replace the first server, as recited by claim 1. For example, Fee allows for status information about the chassis and the application allocation among the servers in the chassis to be monitored and reported (col. 2, lines 28-55), but does not allow for the automated replacement of a managing server upon failure or overload, as recited by claim 1.

Accordingly, for at least the reasons set forth above, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 10, 17, 21 and 24 contain limitations similar to those of claim 1 and accordingly, Applicants respectfully request the rejection of claims 10, 17, 21, and 24 and their dependant claims be withdrawn.

35 U.S.C. § 103 Rejection

Claims 2 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fee.

Claims 5, 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fee, in view of Fung, U.S. Patent Application Publication 2002/0062454 A1 (“Fung”).

Claims 2, 5, 7, 8 and 22 depend from one of independent claims 1, 10, 17, 21 and 24 and thus include all the limitations of the independent claim from which they depend. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 2, 5, 7, 8 and 22.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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